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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 001422

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DEPARTMENT FOR EUR/SE AND EUR/AGS

E.O. 12958: DECL: 03/05/2008

TAGS: PGOV PREL PHUM TU

SUBJECT: CASE AGAINST GERMAN FOUNDATIONS DISMISSED

REF: A. ANKARA 855
B. 02 ANKARA 7680

Classified by Acting Political Counselor Nicholas S. Kass
Reason: 1.5(b)(d).

¶1. (C) Summary: An Ankara court unanimously dismissed separatism and espionage charges against representatives of five German pro-democracy foundations. German diplomats welcomed the decision, but are concerned that the foundations might still face restrictions and harassment. This case, based on extremely dubious evidence, illustrates the influence of Kemalist ultranationalists in the bureaucracy.
End Summary.

¶2. (U) An Ankara State Security Court ruled unanimously March 4 to dismiss for lack of evidence the case against 15 defendants charged with separatism and espionage (refftels) for their work on behalf of five German democracy foundations. The defendants included the leaders of the Turkey branches of the Friedrich Ebert, Konrad Adenauer, Heinrich Boll, and Friedrich Naumann foundations, as well as the Orient Institute. The charges against the foundations included accusations that the groups plotted to prevent an Australian mining company from mining gold in a village near Bergama in Turkey's Aegean Region. A book written on the subject by the late Necip Hablemitoglu comprised the bulk of the evidence.

¶3. (C) Both the MFA and the German Embassy issued statements welcoming the decision, and declaring that relations between the two countries have not been harmed. However, two German diplomats told Poloff March 5 the long-term impact of the case will depend on how freely the foundations are able to operate in the future. The foundations to date have not been able to attain legal status in Turkey. During the trial, the Interior Ministry prepared as evidence a highly politicized report on the foundations' finances. This report, the diplomats said, consists of "outrageous" accusations that the German Ambassador controls the foundations as part of a secret campaign to undermine the Turkish state and promote

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separatism. Lawyers for the foundations are planning legal action against the report.

¶4. (C) The diplomats said they would have preferred a full acquittal, but given the flimsy evidence in the case a dismissal was probably the only viable option open to the court. In addition, German and other outside pressure apparently forced the court to expedite the case, which began December 26 and was completed in record time by Turkish standards. German Interior Minister Schily raised the issue during his meetings in Ankara March 3, and German FM Fischer raised the issue in a January 23 meeting in Istanbul with PM Gul (reftel A). The diplomats said they did not believe there would be further legal action in the case; they had no information about press reports that an attorney representing defendants in the case not directly connected to the foundations plans to sue the prosecutor.

Comment

¶5. (C) This case illustrates the pervasive influence of nationalists who hold key positions in the bureaucracy. A wide range of Embassy GOT contacts acknowledged that the indictment in this case -- filed by controversial prosecutor Nuh Mete Yuksel the day before he was demoted in a sex scandal -- was baseless and ridiculous. But many prosecutors are keen to wield their power against foreigners, outsiders, human rights activists, and other alleged miscreants they perceive as a threat to the State. The law gives them broad

leeway to levy charges based on anything they deem "evidence," and judges do not have the authority to dismiss even the weakest indictments without holding at least one hearing.

¶6. (C) It is noteworthy that the late Hablemitoglu's writings served as the principal evidence, such as it was, in the case. Hablemitoglu was a notorious Kemalist who accused the U.S. of supporting Islamic "reactionaries" in order to threaten the secular Turkish establishment. Murdered under still mysterious circumstances outside his home last Dec. 18, Hablemitoglu's funeral was a high-profile Kemalist testimonial attended by President Sezer, the TGS leadership, and others. Even the Islam-oriented P.M. Gul felt compelled to attend, lest his non-appearance be "misread" by Hablemitoglu's ideological sympathizers in the mainstream press.

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